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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,282	12/15/2003	Hiroshi Nakahata	AA556C	4285

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/736,282

Applicant(s)

NAKAHATA ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claim 5 is objected to because of the following informalities: "the end edge" lacks sufficient antecedent basis, as it is unclear which end edge the claim language is referring to. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1- are rejected under 35 U.S.C. 102(b) as being anticipated by Nakahata (U.S. Patent No. 5,873,868).

With respect to **claim 1**: Nakahata teaches an absorbent article 20 having a pair of longitudinal side edges 50 and a first end edge 52, a second end edge 52, a first waist panel 46 adjacent to the first end edge 52, a second waist panel 44 adjacent to the second end edge 52, a crotch panel 48 positioned between the first and second waist panels, and a side panel 30 extending laterally outwardly from the first or second waist panel, the absorbent article 20 comprising a liquid pervious topsheet 24, an absorbent core 28 disposed underneath the topsheet 24, and a chassis layer 22, wherein the first or second waist panel 46,44 comprises a portion of the

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chassis layer 22, the chassis layer 22 including a plurality of spaced discontinuities 206 regularly disposed in at least a portion of the first or second waist panel 46,44 such that when the waist panel is subject to tension the discontinuities 206 provide openings that extend through the chassis layer 22 thereby providing the chassis layer 22 with extensibility in the transverse direction; and an extensibility controlling means in the form of an elastically extensible topsheet 24 to control the extensibility of the chassis layer 22, wherein the extensibility controlling means inhibits the chassis layer from extending beyond extensibility causing breakage of the chassis layer. (Col. 3, lines 13-67, Col. 10, lines 11-13, Col. 11, lines 1-21, Col. 12, lines 16-22)

With respect to **claim 2**: The extensibility causing breakage of the chassis layer is between 10-500%, which overlaps the range of more than 20 %. (Col. 14, lines 10-12)

With respect to **claim 4**: The extensibility controlling means is disposed in the first or second waist panel 46,44 in the transverse direction across at least the transverse width of the plurality of spaced discontinuities 206. (Fig. 2, Col. 7, line 65 – Col. 8, line 9, Col. 11, lines 1-8)

With respect to **claim 5**: The extensibility controlling means is disposed along the end edge. (Col. 7, line 65 – Col. 8, line 9)

With respect to **claim 6**: The extensibility controlling means is a stretchable elastic material, i.e. the elastically extensible topsheet 24. (Col. 10, lines 11-13)

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With respect to **claim 7**: The chassis layer 22 comprises a liquid impervious material. (Col. 3, lines 32-35, Col. 4, lines 5-12)

With respect to **claim 8**: The absorbent article 20 comprises a liquid impervious sheet 26 disposed between the absorbent core and the chassis layer where the chassis layer is a holder and the diaper comprises a holder and liner wherein the liner contains the topsheet 24, backsheet 26 and core 28. (Col. 3, lines 39-43)

With respect to **claims 9,10**: Nakahata teaches that the absorbent core 28 does not extend into the first or second waist panel in which the discontinuities 206 are provided inasmuch as Nakahata teaches that the core can be of various shapes and sizes, at least one of which would yield a core 28 which does not extend into said panels. (Col. 7, lines 5-12)

With respect to **claim 11**: The discontinuities 206 are slits. (Col. 11, lines 5-9)

With respect to **claim 12**: The discontinuities 206 comprise a plurality of cuts wherein the cuts comprise rectilinear cuts. (Col. 11, lines 5-9)

With respect to **claim 13**: The discontinuities 206 are regularly disposed as a pattern 204 in the chassis layer 22. (Col. 11, lines 1-9)

With respect to **claim 14**: The discontinuities 206 are oriented such that the discontinuities extend in a longitudinal direction. (Fig. 2, Col. 11, lines 9-13)

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With respect to **claim 15**: The discontinuities 206 are aligned in the longitudinal direction in an array of columns and rows seen in Fig. 2 such that the discontinuities form a plurality of laterally spaced columns 208 as seen in Fig. 4 which extend in the longitudinal direction. (Col. 11, lines 16-21)

With respect to **claim 16**: The discontinuities 206 are located in the topsheet 24 which is treated to be hydrophobic and thus the discontinuities 206 comprise a plurality of edges wherein the edges are treated. (Col. 6, lines 9-12)

With respect to **claims 17,18**: The discontinuities 206 are arranged such that the application of a tensile force to the chassis layer results in a plurality of equal area openings having an area from about 1 mm² to about 2500 mm². (Col. 12, lines 16-22)

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 3 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nakahata ('868).

With respect to **claim 3**: Nakahata teaches the same materials for topsheet 24 as those set forth in the claimed disclosure. Thus, while Nakahata is silent regarding a percentage elongation of the topsheet associated with a tension force of 125 grams/25mm, the topsheet 24 is considered herein to inherently possess the property set forth in claim 3 per *In re Fitzgerald Sanders, & Bagheri*, 205 USPQ 594 (CCPA 1980). The burden is therefore upon the applicant

to show that these properties are not inherent properties of the topsheet taught by Nakahata by demonstrating that the instant invention and the claimed invention are not equivalent.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

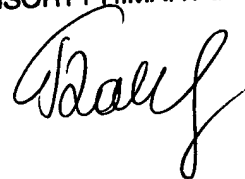
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

January 10, 2007

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', written over the printed name and title.